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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,532	12/30/2004	Ruedi Hess	009765-053	6367
21839	7590	11/20/2006	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC			KRAMER, DEAN J	
POST OFFICE BOX 1404			ART UNIT	
ALEXANDRIA, VA 22313-1404			PAPER NUMBER	
			3652	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/501,532

Applicant(s)

HESS, RUEDI

Examiner

Dean J. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 4-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/16/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the species of Figure 2, readable on claims 1-3 and 10-15, in the reply filed on October 24, 2006 is acknowledged. The traversal is on the ground(s) that there would be no undue burden on the examiner to examine the non-elected species with the elected species. This is not found persuasive because each species represents a structurally distinct invention that would require a different search strategy for each species.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 24, 2006.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3 and 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the phrase "is embodied" throughout the claims is deemed to be vague and confusing.

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Further, the phrase "is extant", as recited in claim 1, line 7, is not clearly understood.

Also, the use of the term "the customary type", as recited in claims 1 and 2, is deemed to be indefinite.

There is no clear antecedent basis for "the upper and lower surfaces" as recited in claim 2.

In claim 3, line 4, the phrase "joined within each other to two fabrics each instead of one fabric each" is not clearly understood.

Claims 12-15 are confusing in that their preambles are not consistent with claim 1 from which they depend. Thus, it is unclear whether applicant is attempting to claim an apparatus (i.e. a sling) or a method of its use. For examination purposes, these claims (12-15) will be treated as apparatus claims since they depend from an apparatus claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, and 12-15, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by von Danwitz (4,843,807).

The patent to von Danwitz shows an endless sling of tube-like fabric wherein one end (4) is inserted into a second end (3) of the tube and then sewn together (10) as best

shown in Figure 5. Regarding claims 12-15, the von Danwitz sling is deemed capable of "use" as an accessory in climbing, skiing, or supporting a knapsack as broadly as recited in the above claims.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 10, and 11, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over von Danwitz in view of St. Germain (5,651,572).

St. Germain shows a sling comprised of various synthetic components resulting in a high strength and abrasion resistant structure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the von Danwitz sling out of a combination of high strength synthetic materials, such as Dyeema, Kevlar, aramide, polyester, polyamide, and any other well known and commonly used materials in the sling art in order to create a durable product as taught by St. Germain. Further, while the von Danwitz patent does not disclose any relative dimensions of its sling as compared to that of the "customary type", it would have been an obvious choice of design to form at least the connection portion (9) of its sling ends substantially thinner (i.e. 50 percent) than a connection portion of certain prior art sling so as not to create a bulge along the length of the sling body.

***Specification***

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9. The abstract of the disclosure is objected to because it contains legal phraseology such as "said" which should be avoided. Correction is required. See MPEP § 608.01(b).

10. The disclosure is objected to because of the following informalities: The specification improperly refers to specific claims by claim number on page 1.

Appropriate correction is required.

### ***Drawings***

11. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kamper, Yorty, and Smiley all show loops having one end inserted within a portion of a second end and secured thereto.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (571) 272-6926. The examiner can normally be reached on Mon., Tues., Thurs., Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dean J Kramer  
Primary Examiner  
Art Unit 3652

djk  
11/15/06